

Title 631, WORKER'S COMPENSATION BOARD OF INDIANA

Economic Impact Statement

LSA Document # 11-357

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

The proposed rule will not impose requirements or costs on small businesses under IC 4-22-2.1-5.

Explanation of Amendments:

The Worker's Compensation Board seeks to update and/or revise most provisions of the administrative code which address workers' compensation or occupational disease issues and implement fees for mediations conducted by staff members of the Agency. Establishment of a fee for mediation is mandated under IC 22-3-4-4.5. The proposed fee structure for mediations is a flat fee of \$350.00 for five hours of mediation, with an hourly rate of \$50.00 for each hour thereafter. No travel expenses will be paid by the parties.

Economic Impact on Small Business

There is no economic impact of mediation on small business. Most, if not all, small businesses purchase a policy of workers' compensation insurance to cover their liability for workplace injuries. Premiums are paid for the coverage and the insurer pays the cost of the defense of the worker's compensation claim. Whether mediation is chosen or not will be a decision made, and paid, by the insurer.

Additionally, the decision for a company to proceed with mediation is voluntary. If mediation is the option chosen to resolve a dispute, and the employer is self-insured, the flat nominal fee would apply. It is normally agreed at the outset of the mediation that the parties shall split the cost, although the employer may foot the bill.

This fee of \$350 is much less than what the parties would pay should they choose to mediate a case through a private attorney mediator. Private mediators charge an hourly rate including travel and preparation time. Private mediations typically cost upwards of \$600.

Choosing to resolve a claim through mediation has been shown to actually reduce the cost of defending a worker's compensation claim. Discovery costs such as deposing expert witnesses are eliminated.

Parties typically select mediation because it is not only less expensive than pursuing the formal hearing process and all its potential legal fees, but also resolves the claim more quickly.